

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FELICIA PICKETT JOHNSON

Plaintiff,

-against-

ST. BARNABAS NURSING HOME and RONALD
GRANGER,

Defendants.

Docket No: CV 08 2188

ANSWER

Marrero, U.S.D.J.

Defendant, ST. BARNABAS NURSING HOME ("ST. BARNABAS"), by and through its undersigned attorneys, GARBARINI & SCHER, P.C., as and for its Answer to plaintiff's Complaint, alleges as follows:

JURISDICTION:

1. Deny each and every allegation contained on the first page of the Complaint.

PARTIES:

2. Deny any knowledge or information sufficient to form an opinion or belief as to the allegations contained in paragraphs designated I(A), I(B), and I(C) of the Complaint.

STATEMENT OF CLAIM:

3. Deny each and every allegation contained in paragraphs designated II(A), II(B), II(C), II(D), and II(E) of the Complaint.

EXHAUSTION OF FEDERAL ADMINISTRATIVE REMEDIES:

4. Deny each and every allegation contained in paragraphs designated III(A), III(B), and III(C) of the Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

5. Plaintiff's Complaint fails to state a cause of action upon which relief can be granted, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

6. Plaintiff has failed to obtain jurisdiction over defendants through proper service of the Summons and Complaint.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE:

7. Plaintiff's claims are barred pursuant to the applicable statutes of limitation.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:

8. Plaintiff's federal statutory claims are barred because the Complaint was not filed within 90 days of receipt Notice of Right to Sue from the Equal Employment Opportunity Commission.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:

9. Plaintiff's claims are barred under the doctrine of laches.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:

10. This matter has been fully and fairly litigated before the Equal Employment Opportunity Commission and been dismissed in defendants' favor, and is therefore barred by the doctrine of *res judicata*.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE:

11. The Complaint is barred, in whole or in part, because plaintiff has failed to exhaust all federal administrative remedies, and has raised allegations that were omitted from plaintiff's Equal Employment Opportunity Commission Charge.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE:

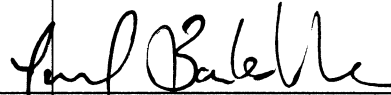
12. Plaintiff's state and city law causes of action are not subject to the supplemental jurisdiction of this Court.

WHEREFORE, defendants demand judgment dismissing the Complaint of the plaintiffs herein, together with costs and disbursement of this action.

Dated: New York, NY
April 21, 2008

GARBARINI & SCHER, P.C.

By:



YUVAL BAR-KOKHBA (YB 9109)

Attorneys for Defendant

ST. BARNABAS NURSING HOME

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TO: FELICIA PICKETT JOHNSON
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Bronx, New York 10457

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GARBARINI & SCHER, P.C.

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